



# Senate

## File No. 661

General Assembly

February Session, 2000

**(Reprint of File No. 162)**

Substitute Senate Bill No. 311  
As Amended by Senate  
Amendment Schedule "A"  
and House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 25, 2000

### ***An Act Concerning Observance Of Martin Luther King Day.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (a) Each municipality shall include a requirement  
2       in any collective bargaining agreement executed on or after the  
3       effective date of this act that all nonessential municipal offices shall be  
4       closed on any day designated as Martin Luther King Day pursuant to  
5       section 1-4 of the general statutes.

6       (b) Any municipality that did not observe the Martin Luther King  
7       Day legal holiday on January 17, 2000, by closing all nonessential  
8       municipal offices shall close all such nonessential municipal offices on  
9       any day designated as Martin Luther King Day pursuant to section 1-4  
10      of the general statutes.

11      Sec. 2. (NEW) Notwithstanding the provisions of the general  
12      statutes, each municipal employer and each employee organization in  
13      a municipality that is required to close all nonessential municipal

14 offices in observance of Martin Luther King Day pursuant to  
15 subsection (b) of section 1 of this act shall reopen each collective  
16 bargaining agreement approved in accordance with the provisions of  
17 sections 7-467 to 7-477, inclusive, of the general statutes for the sole  
18 purpose of negotiating compensation or exchange of benefits, if any,  
19 for the bargaining unit members covered by such agreement for  
20 observance of Martin Luther King Day.

21       Sec. 3. (NEW) Notwithstanding the provisions of section 7-473c of  
22 the general statutes, if any such municipal employer and any such  
23 employee organization are unable to resolve the compensation or  
24 exchange of benefits issue after reopening the agreement pursuant to  
25 section 2 of this act by May 31, 2000, the parties shall submit the issue  
26 to the State Board of Mediation and Arbitration, and said board shall  
27 make every effort to resolve the issue through mediation not later than  
28 June 30, 2000.

29       Sec. 4. (NEW) Notwithstanding the provisions of section 7-473c of  
30 the general statutes:

31       (1) If the parties are unable to resolve the compensation or exchange  
32 of benefits issue pursuant to section 3 of this act, by June 30, 2000, the  
33 parties shall submit the issue to an arbitration panel for resolution  
34 through binding arbitration pursuant to this section not later than July  
35 15, 2000.

36       (2) If neither the municipal employer nor the municipal employee  
37 organization has submitted the issue to an arbitration panel for  
38 resolution through binding arbitration pursuant to this section by July  
39 15, 2000, said board shall notify the municipal employer and municipal  
40 employee organization that binding and final arbitration is now  
41 imposed on them, and the arbitration panel selected pursuant to this  
42 section shall resolve the issue through binding arbitration not later  
43 than September 30, 2000. Written notification of such imposition shall  
44 be sent by registered mail or certified mail, return receipt requested, to  
45 each party.

46       (3) Within two days of receipt of such notification, the chief  
47 executive officer of the municipal employer and the executive head of  
48 the municipal employee organization each shall select one member of  
49 the arbitration panel. Within two days of their appointment, the two  
50 members of the arbitration panel shall select a third member, who shall  
51 be an impartial representative of the interest of the public in general  
52 and who shall be selected from the panel of neutral arbitrators  
53 appointed pursuant to subsection (a) of section 7-473c of the general  
54 statutes. Such third member shall be the chairman of the panel. In the  
55 event the municipal employer or the municipal employee organization  
56 have not selected their respective members of the arbitration panel or  
57 the two members of the panel have not selected the third member, the  
58 State Board of Mediation and Arbitration shall appoint such members  
59 as are needed to complete the panel, provided (A) the member or  
60 members so appointed are residents of this state, and (B) the selection  
61 of the third member of the panel by the State Board of Mediation and  
62 Arbitration shall be made at random from among the members of the  
63 panel of neutral arbitrators appointed pursuant to subsection (a) of  
64 section 7-473c of the general statutes.

65       (4) The panel shall, within two days, by the call of its chairman, hold  
66 a hearing within the municipality involved. The chairman of the panel  
67 shall preside over such hearing. Any member of the panel shall have  
68 the power to take testimony, to administer oaths and to summon, by  
69 subpoena, any person whose testimony may be pertinent to the  
70 matters before said panel, together with any records or other  
71 documents relating to such matters. In the case of contumacy or refusal  
72 to obey a subpoena issued to any person, the Superior Court, upon  
73 application by the panel, shall have jurisdiction to order such person to  
74 appear before the panel to produce evidence or to give testimony  
75 touching the matter under investigation or in question, and any failure  
76 to obey such order may be punished by said court as a contempt  
77 thereof.

78       (5) The panel shall conclude the hearing within fifteen days after its  
79 commencement. Within ten days after the hearing, the panel shall

80 issue, upon majority vote, and file with the State Board of Mediation  
81 and Arbitration its decision which shall immediately and  
82 simultaneously distribute a copy thereof to each party. In making its  
83 decision, the panel shall accept the last best offer of either of the  
84 parties. As part of the arbitration decision, each member shall state the  
85 specific reasons and standards in making a choice on each unresolved  
86 issue. In arriving at its decision, the panel shall be limited to the  
87 consideration of the criteria set forth in subdivision (2) of subsection  
88 (d) of section 7-473c of the general statutes. The decision of the panel  
89 shall be final and binding upon the municipal employer and the  
90 municipal employee organization except as provided in section 5 of  
91 this act and, if such award is not rejected by the legislative body  
92 pursuant to section 5 of this act, except that a motion to vacate or  
93 modify such decision may be made in accordance with sections 52-418  
94 and 52-419 of the general statutes.

95 (6) In regard to all proceedings undertaken pursuant to this section  
96 the secretary of the State Board of Mediation and Arbitration shall  
97 serve as staff to the arbitration panel.

98 (7) The cost of the arbitration panel shall be distributed among the  
99 parties in the following manner: (A) The municipal employer shall pay  
100 the costs of the arbitrator appointed by it, (B) the municipal employee  
101 organization shall pay the costs of the arbitrator appointed by it, (C)  
102 the municipal employer and the municipal employee organization  
103 shall equally divide and pay the cost of the chairman, and (D) the costs  
104 of any arbitrator appointed by the State Board of Mediation and  
105 Arbitration shall be paid by the party in whose absence the board  
106 appointed.

107 Sec. 5. (NEW) Notwithstanding the provisions of section 7-473c of  
108 the general statutes:

109 (1) Not later than October 30, 2000, the legislative body of the  
110 municipal employer may reject the award of the arbitrators or single  
111 arbitrator issued pursuant to section 4 of this act by a two-thirds

112 majority vote of the members of such legislative body present at a  
113 regular or special meeting called and convened for such purpose.

114 (2) Not later than November 10, 2000, the legislative body or its  
115 authorized representative shall be required to state, in writing, the  
116 reasons for such vote and shall submit such written statement to the  
117 State Board of Mediation and Arbitration and the municipal employee  
118 organization. Not later than November 20, 2000, the municipal  
119 employee organization shall prepare a written response to such  
120 rejection and shall submit it to the legislative body and the State Board  
121 of Mediation and Arbitration.

122 (3) Not later than November 20, 2000, the State Board of Mediation  
123 and Arbitration shall select a review panel of three arbitrators or, if the  
124 parties agree, a single arbitrator who are residents of Connecticut and  
125 labor relations arbitrators approved by the American Arbitration  
126 Association and not members of the panel who issued the rejected  
127 award. Such arbitrators or single arbitrator shall review the decision on  
128 each such rejected issue. The review conducted pursuant to this  
129 subdivision shall be limited to the record of the hearing pursuant to  
130 section 4 of this act, the written explanation of the reasons for the vote  
131 and a written response by either party. In conducting such review, the  
132 arbitrators or single arbitrator shall be limited to consideration of the  
133 criteria set forth in subdivision (2) of subsection (d) of section 7-473c of  
134 the general statutes. Such review shall be completed not later than  
135 December 10, 2000.

136 (4) Not later than December 15, 2000, after the completion of such  
137 review, the arbitrators or single arbitrator shall render a written  
138 decision with respect to each rejected issue which shall be final and  
139 binding upon the municipal employer and the employee organization  
140 except that a motion to vacate or modify such award may be made in  
141 accordance with sections 52-418 and 52-419 of the general statutes. The  
142 arbitrators or single arbitrator shall accept the last best offer of either of  
143 the parties. The decision of the arbitrators or single arbitrator shall be  
144 in writing and shall include specific reasons and standards used by

145 each arbitrator in making a decision on each issue. The decision shall  
146 be filed with the parties. The reasonable costs of the arbitrators or  
147 single arbitrator and the cost of the transcript shall be paid by the  
148 legislative body. Where the legislative body of a municipal employer is  
149 the town meeting, the board of selectmen shall perform all of the  
150 duties and shall have all of the authority and responsibilities required  
151 of and granted to the legislative body under this subsection.

152 Sec. 6. This act shall take effect from its passage.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

### ***OFA Fiscal Note***

***State Impact:*** Potential Minimal Absorbable Workload Increase

***Affected Agencies:*** Department of Labor (state Board of Mediation and Arbitration)

***Municipal Impact:*** STATE MANDATE

### ***Explanation***

***State Impact:***

To the extent that the parties cannot come to agreement and need to pursue mediation and arbitration, there will be a minimal workload increase to the state Board of Mediation and Arbitration.

***Municipal Impact:***

The town of Wallingford is the only municipality that does not observe Martin Luther King Day by closing all nonessential offices. Requiring the town to do so would not result in any additional salary costs. However, if the parties cannot come to an agreement, they must pursue mediation, and then arbitration, if necessary.

The state Board of Mediation and Arbitration provides mediation services free of charge to municipalities. If the issue cannot be resolved through mediation, the parties would have to submit to binding arbitration with the board. The town would be responsible for the costs of the arbitrator it selects (\$350 to \$600 per day), and for half

of the costs of the neutral arbitrator (\$300 to \$500 per day for the town's portion). Although arbitration typically takes three to six days, it can last up to twenty days. There are a total of 14 bargaining units in the town. Contracts with six of these units already require the observance of Martin Luther King Day. Therefore, eight contracts would have to be reopened.

If the town's legislative body rejects an arbitration award, the issue must be resubmitted to the state board. The parties may choose a single arbitrator to settle the issue, or a three-arbitrator panel. In either case, the town is responsible for all arbitrator fees.

Senate Amendment "A" has no fiscal impact. The amendment requires that all collective bargaining agreements in all municipalities entered into after the bill's effective date contain a provision to close nonessential offices on Martin Luther King Day. The amendment also includes provisions about the binding arbitration process.

House Amendment "A" makes several changes to the arbitration process and has no fiscal impact.



---

**OLR Amended Bill Analysis**

sSB 311 (File 162, as amended by Senate "A" and House "A")\*

**AN ACT CONCERNING OBSERVANCE OF MARTIN LUTHER KING DAY.****SUMMARY:**

This bill requires all towns to include a provision in each collective bargaining agreement that is executed after the bill's effective date stating that the town's nonessential town offices will be closed on Martin Luther King Day.

The bill requires towns that did not close all nonessential offices in observance of Martin Luther King Day on January 17, 2000 to close them on the holiday in the future. These towns must reopen all collective bargaining agreements exclusively to negotiate compensation or benefits exchange, if any, for Martin Luther King Day. The holiday must be observed on the same date that the state observes it.

It establishes a mediation and a binding arbitration process that towns and their unions must use if they fail to agree on the compensation and benefits issue by specified dates.

\*Senate Amendment "A" adds the requirement that towns include a provision in each collective bargaining agreement entered into after the bill's effective date that requires the town to close all nonessential offices on Martin Luther King Day. It adds provisions about the binding arbitration process, including how the arbitration panel is selected and paid for if arbitration is imposed on the parties, the time frame for the hearing, and a town's ability to reject the arbitrators' award.

\*House Amendment "A" requires the parties, after mediation has failed, to submit the issue of whether the town should compensate union employees for Martin Luther King Day to an arbitration panel rather than the State Board of Mediation and Arbitration (SBMA) for

binding arbitration.

It requires (1) the panel to accept one party's last best offer and (2) each panel member to state his reasons for his decision. It limits the standards members may use to those currently used in regular municipal binding arbitration.

The amendment requires SBMA to distribute copies of the panel's decision to the parties. It specifies that the decision is final and binding on both parties unless the town rejects it or a court modifies or vacates it due to undue influence or coercion.

Finally, the amendment:

1. limits the criteria a panel assembled to review a town's rejection of a binding arbitration may use to render its decision;
2. limits the binding arbitration material such a panel may review; and
3. requires such a panel to accept a party's last best offer.

EFFECTIVE DATE: Upon passage

## **MEDIATION**

If the parties fail to agree by May 31, 2000, they must submit the issue to SBMA for mediation. SBMA must make every effort to resolve the issue by June 30, 2000.

## **BINDING ARBITRATION**

### ***Submitting Issue to Arbitration***

If the parties fail to agree through SBMA mediation by June 30, 2000, they must submit the issue to an arbitration panel by July 15 for binding arbitration. The panel must resolve the issue by September 30.

If the parties fail to submit the issue to the panel by July 15, SBMA must notify them that binding arbitration is imposed on them. It must send the notification by registered or certified mail.

***Selecting the Arbitration Panel***

Within two days of receiving notice of imposed arbitration, the town and union must each select one panel member. The two panel members then select a third arbitrator from a list of neutral arbitrators that the SBMA establishes by law. This arbitrator must be impartial and represent the public's interest. He serves as the panel's chairman. (The bill does not specify the process for selecting a panel unless arbitration is imposed.)

The SBMA must select any member of the arbitration panel that the parties fail to select. Any SBMA-selected arbitrator must be a Connecticut resident and the neutral member must be randomly selected from the list of neutral arbitrators.

***Hearing Process***

The panel chairman must (1) hold a hearing in the affected town within two days of the panel's selection and (2) preside over the hearing. The SBMA secretary serves as the panel's staff.

The bill gives the panel certain powers, including authority to take testimony, administer oaths, and summon testifiers, records, or other documents by subpoena. The panel can ask the Superior Court to order individuals to comply. Failure to obey the court order constitutes contempt and may be punished accordingly.

The hearing must conclude within 15 days. Within 10 days after the hearing, the panel must render a decision through a majority vote, and file it with SBMA.

Each panel member must state the reason and standards used in making his decision. When making a decision, the panel must accept the last best offer after considering:

1. the public interest and the town's financial capability (It is not clear whether the panel must give priority to this criteria as arbitrators must under the regular municipal binding arbitration law.);
2. pre-arbitration negotiations;

3. the union's welfare and interest;
4. cost of living changes; and
5. salaries, fringe benefits, and other employment conditions prevailing in the labor market, including private-sector wage and benefit developments.

The SBMA must immediately give the parties a copy of the decision, which is final and binding on the town and the union unless (1) the town legislative body rejects the decision or (2) one party moves to modify or vacate the decision based on fraud or coercion in the decision-making process and proves this in Superior Court.

### **Cost**

The bill requires the town and the union to cover the cost for their respective arbitrators regardless of whether they or SBMA appoint him. The parties split the cost of the neutral arbitrator.

### ***Towns' Ability to Reject the Panel's Decision***

The bill gives a town's legislative body until October 3 to reject the arbitration panel's decision by a two-thirds majority vote of members present at a regular or special meeting called for that purpose. If a town rejects the decision, it must state its reasons in writing to the union and SBMA by November 10. The union must submit a reply to the town and the SBMA by November 20.

By November 20, SBMA must select an arbitration panel, whose costs the town pays, that must review the rejection by December 10. The review must be limited to the hearing's record, the panel members' written explanations of the reasons for their vote, and written responses provided by either party.

The panel consists of three members (or one if the parties agree). Members must be Connecticut residents and labor relations arbitrators approved by the American Arbitration Association. They cannot be members of the panel that issued the rejected award.

By December 15, 2000, the panel or single arbitrator, as the case may be, must issue its decision, which is final and binding on the town and

union. But a court can vacate or modify the decision if a party proves that undue influence or coercion was involved.

The decision must (1) be one of the parties' last best offers, (2) be in writing, (3) include specific reasons and standards relied on, and (4) be filed with the parties. The standards relied on must be limited to:

1. the public interest and the town's financial capability (It is not clear whether the panel must give priority to this criteria.);
2. pre-arbitration negotiations;
3. the union's welfare and interest;
4. cost of living changes; and
5. salaries, fringe benefits, and other employment conditions prevailing in the labor market, including private-sector wage and benefit developments.

The panel must give a copy of its decision to the parties. The legislative body must pay the cost of the arbitrators and the transcript. If the town legislative body is a town meeting, the board of selectmen must perform all of the bill's requirements.

## **BACKGROUND**

### ***Legislative History***

On March 29, the Senate referred the bill to the Appropriations Committee, which reported it favorably on April 4. On April 12, the Senate referred the bill to the Labor and Public Employees Committee, which reported it favorably on April 13.

## **COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute  
Yea 16      Nay 0

Appropriations Committee

Joint Favorable Report

Yea 39      Nay 6

Labor and Public Employees Committee

Joint Favorable Report

Yea 8      Nay 1